

UNITED STATES INTELLIGENCE BOARD
SECURITY COMMITTEE

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SECOM-D-146
23 April 1976

MEMORANDUM FOR: Deputy to the DCI for the Intelligence
Community

FROM :
Chairman, Security Committee

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SUBJECT : Implementation of Section 7(a) of Executive
Order 11905 - Status Report

1. This memorandum provides a status report on the progress being made in the development of an implementation plan for Section 7(a) of Executive Order 11905.

2. Section 7(a) requires that "all members of the Executive Branch and its contractors given access to information containing sources or methods of intelligence, shall, as a condition of access, sign an agreement that they will not disclose that information to persons not authorized to receive it."

3. The promulgation format to be proposed to the DCI will be a DCID. Included in the DCID will be the necessary ingredients for the required agreements and a mechanism for identifying sources and methods information. The key ingredients under consideration at this time are:

(a) Condition of access as the consideration clause.

(b) Agreement being executed as requirement of Executive Order.

(c) Identification mechanism indicating material or information falls within purview of agreement.

(d) Acknowledgement of indefinite tenure of agreement.

~~XXXX~~ (e) The statement that the individual will not disclose to persons unauthorized to receive the information containing (classified) sources or methods of intelligence.

4. There is at present disagreement on (e) above. The Executive Order is mute on the classification of sources or methods. The CIA has advocated a literal interpretation and proposes that the agreements executed also be mute. In this way, an extra layer of judicial protection is provided in the event of unauthorized disclosure. If the information revealed does not pass the classification test under E.O. 11652, as ruled either by a court or the ICRC, action could then be pursued under the National Security Act on the basis of the sources and methods nondisclosure agreement. NSA, FBI and possibly State would support this position.

5. The DoD representatives have said that Mr. Latimer advised them that the DoD position would only support protection of classified sources or methods and, therefore, the nondisclosure agreement should stipulate classified sources and methods.

6. The proposed bill to amend the National Security Act of 1947, circulated with E.O. 11905 (H.R. 12006), clearly states that the term "information relating to intelligence sources and methods" means any information, regardless of its origin that is classified pursuant to a statute or Executive Order, or a regulation or rule issued pursuant thereto requiring a specific degree of protection against unauthorized disclosure for reasons of national security. It is assumed that the Attorney General supports this position.

7. A possible solution to this impasse might be reached through a DCID setting forth "minimum" requirements for the implementation of E.O. 11905. The minimum would be an

agreement referring to classified sources and methods information; which would be in substantial compliance with the Executive Order. It would contain a stipulation that the heads of departments and agencies could broaden this as necessary to include all sources and methods information.

8. Supportive arguments have been requested from the members. Upon receipt, a proposed DCID with appropriate recommendations will be forwarded for consideration by the DCI and USIB.



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